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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JAN 14 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Policies and Rules concerning
Toll Fraud

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CC Docket No. 93-292

COMMENTS OF U.S. INTELCO NETWORKS, INC.

U.S. Intelco Networks, Inc.

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Dated: January 14, 1993

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SUMMARY

U.S. Intelco (USIN), among other things, provides Line Information Database (LIDB) services to over 1000 Independent local exchange telephone companies nationwide. USIN also represents many Independent local exchange carriers who issue telephone calling cards. In its comments, USIN identifies methods by which LIDB technology can be utilized to reduce toll fraud, and addresses issues relating to the allocation of the costs of toll fraud between calling card issuing LECs, LIDB providers and LIDB users.

Specifically, USIN suggests that provision by LIDB users of originating and terminating telephone numbers could assist LIDB providers in identifying and reducing toll fraud. USIN also notes that significant incentives exist for LIDB providers to implement measures to reduce fraud, apart from their own liability. Accordingly, USIN submits that there is no basis for assigning liability to the LIDB provider, in the absence of willful misconduct or gross negligence. USIN also encourages the Commission to carefully address the need to keep toll fraud prevention strategies confidential, and urges comprehensive treatment of toll fraud issues. USIN also argues that since card-issuing LECs are less able to detect and reduce fraud, and since toll carriers incorporate the costs associated with toll fraud in the development of its rates, toll carriers should bear the cost of toll fraud, in the absence of willful misconduct or gross negligence by the card-issuing LEC.

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COMMENTS OF U.S. INTELCO NETWORKS, INC.

U.S. Intelco Networks, Inc. ("USIN"), on behalf of itself and its Independent Telephone Company ("ITC" or "Independent") owners and users and pursuant to Sections 1.415 and 1.419 of the Commission's Rules,¹ respectfully submits the following Comments in response to the Notice of Proposed Rule Making ("NPRM") released herein on December 2, 1993. USIN's primary objective in offering these comments is to contribute both factual information and substantive proposals to the Commission's effort to implement policies which reduce the instance of toll fraud on the national communications network. In particular, USIN desires to identify methods by which Line Information Data Base (LIDB) technology can be utilized to reduce toll fraud.

In support thereof, USIN shows the following: USIN is wholly owned by 282 ITCs and provides customer database services, calling card billing validation services, 800 RESPORG services, revenue administration services and other related database services to over 1000 Independents nationwide. In providing these services, USIN

¹/ 47 C.F.R. §§ 1.415 and 1.419.

has demonstrated its commitment to the deployment of advanced telecommunications services throughout rural America by its initiative and participation in an Independent SS7 network and related database services which have ensured the availability of LIDB and 800 database services to customers served by rural ITCs. In addition, USIN assists Independents in the provisioning of calling cards to Independent customers. Accordingly, USIN has an active and significant interest in the minimization of toll fraud on the nations telecommunications networks.

I. USIN'S POSITION

USIN applauds the Commission's decision to devote its attention and resources to the issues regarding toll fraud. USIN agrees that the cooperation of a wide variety of industry players is necessary for an effective solution to the toll fraud problem. Accordingly, USIN believes that the Commission should focus this proceeding primarily on toll fraud prevention, and secondarily on considerations regarding liability for toll fraud.

With respect to concerns regarding LIDB-based calling card fraud, USIN respectfully submits that the Commission should adopt rules and regulations consistent with the following:

- All parties concerned should cooperate in implementing strict industry standards for LIDB fraud control programs;
- All parties querying the LIDB should provide the LIDB provider with the calling number and called number to strengthen fraud control measures at the LIDB level;

- LIDB providers have sufficient incentives to make the LIDB effective in reducing LIDB based fraud, and there is no basis for assigning liability to the LIDB provider, in the absence of willful misconduct or gross negligence;
- The Commission's requirements to hold open and fair notice and comment procedures should be balanced against the need to keep information confidential so as not to facilitate further toll fraud;
- Card-issuing LECs are in an inferior position, relative to interstate toll carriers, in detecting and reducing fraud, and therefore should not bear any direct liability for fraud, absent willful misconduct or gross negligence.

DISCUSSION

I. Issues regarding LIDB Providers

A. All Parties Concerned Should Take a Role in Reducing Fraud, but LIDB Providers can Take Additional Steps if IXC's provide Originating and Terminating Number Information

USIN applauds the Commission for its efforts, and agrees with the NPRM that the Commission's priority should be to promote closer coordination within the industry to aid in the detection and prevention of fraud. NPRM, para. 1. USIN also agrees with those who contend that the emphasis of any fraud proposal should be on fraud prevention, not on the apportionment or assignment of liability. NPRM, para. 30. The Commission's NPRM correctly notes that both LIDB owners and LIDB customers have obligations to detect fraudulent use of joint use calling cards. NPRM, para. 36. Accordingly, USIN believes that both LIDB owners and LIDB customers should take additional steps to reduce the instance of fraud. However, the Commission should recognize that different parties have different opportunities and abilities to control fraud.

Therefore, in order for LIDB owners' and customers' efforts to control fraud to be effective, cooperation is required from all parties concerned, including end users, local telephone companies, service bureaus, network providers, law enforcement agencies, and others.

In its comments, USIN will address several examples of how LIDB can be utilized to reduce the instance of fraud. For example, the NPRM notes that the LIDB owner is able to detect high spikes of usage, which may indicate the presence of fraud. NPRM, para. 36. Currently, the USIN LIDB provides for validation of certain types of calling card data housed in the USIN LIDB,² and screening of telephone numbers where the customer seeks to bill calls to a number other than the originating number, or on a collect basis. During the validation/screening process, each query is recorded and measured against a calling card velocity threshold to determine whether there are high spikes of usage. The calling card will be automatically deactivated if an established threshold is reached which reflects an unusual usage pattern which may be indicative of fraudulent use.³

² Calling card validation is accomplished at the USIN LIDB by use of a positive data base field, e.g. a valid calling card number must be present in the LIDB, as opposed to a "negative" database, housing only those cards which are invalid.

³ USIN's LIDB has implemented fraud control mechanisms of this type. For example, the USIN LIDB provides a response at various levels of usage - even at very low levels, card issuers are provided with notice of such usage to enable them to investigate suspected fraud.

USIN encourages all LIDB providers to continue to utilize these techniques to detect fraud. However, LIDB providers can provide additional fraud prevention functions if with each LIDB query made by a toll provider seeking calling card or line number validation, the toll provider transmitted to the LIDB the originating and terminating number for the call. This information may be utilized by LIDB providers to assist in the identification of some types of fraudulent use. Accordingly, USIN suggests that all accessors of LIDB provide this information with each query submitted to a LIDB database. See NPRM, para. 37.

Additional LIDB services available if the IXCs transmit the originating and terminating number include: call screening based on the originating and/or terminating number; a "domestic restriction" function which would allow only domestic calls to be billed to the number resident in the LIDB; N-number restriction, which would allow calls only to a list of allowed numbers, or to a list of combinations of originating/terminating numbers.

Provision of originating and terminating number to LIDB providers would result in improved fraud detection where multiple calls originate from multiple distant locations. This information would also assist in identifying international calls, which are a type of call often made on a fraudulent basis.

Provision of originating and terminating numbers would enable

LIDB providers to apply these additional screening thresholds and take appropriate action which would reduce the instance of some types of existing toll fraud. This reduction would benefit the public interest, and would most directly benefit the toll carriers whose net revenues will increase as a result of a reduction of fraud on their networks.

Accordingly, USIN does not believe that interstate toll carriers should charge LIDB providers for the provision of originating/terminating number information. The interstate toll carriers will, in fact, directly benefit from LIDB providers utilizing this information to identify fraud on the toll carrier's network. Moreover, all interexchange carriers' tariffed rates are presently calculated based in part on estimated levels of fraud and uncollectibles. To the extent that a charge is imposed for the information, additional expenses would be reflected in the charges for LIDB service paid by the LIDB users, the same entities that provide the information. Accordingly, there is no basis to suggest that the costs of providing LIDB should be increased by charges for the information paid to the very carriers who will benefit. There is simply no need to create this unnecessary cycle.

B. LIDB Providers Have Sufficient Incentives to Make the LIDB Effective in Reducing LIDB-based Fraud

As noted above, USIN believes that it is in the public interest for all industry players, including LIDB providers, to utilize all available means to reduce fraud. The NPRM raises the

issue as to whether limitations on LIDB providers' liability would eliminate incentives for LIDB providers to make LIDB as effective as it can be. See NPRM, para. 23. USIN submits that appropriate limitation of LIDB providers' liability does not detract from the incentives that exist for LIDB providers to take all possible measures to reduce fraud.

The existence of these incentives is clearly evident since LECs not only provide line information data, but also use the data when they require validation information associated with usage on their own networks. For example, many LECs that provide LIDB information also provide intraLATA toll services. LEC-issued calling cards, third-number and collect billing can also be utilized for local calling in most circumstances. Inasmuch as the LIDB provider and the LIDB customer are often one and the same, the LIDB provider has a strong incentive to reduce toll fraud.

A related incentive is the fact that many LIDB providers are also calling card issuers. As the calling card issuer deals directly with the end user in the provision of billing, it is the LIDB provider's business office which must deal with customers who receive bills including charges for fraudulent calls. While, as noted in the NPRM, federal law limits the cardholder's liability to \$ 50.00, See NPRM, para.38, it would be only the most foolhardy business provider which would treat its investment in customer service and corporate goodwill so cavalierly as to ignore available

fraud control measures.

The inherent incentives that LECs have in ensuring the administration of LIDB in a manner that limits toll fraud to the extent possible are equally applicable to the Independent LIDB administered by USIN. USIN's essential mission is to foster the interests of its LEC owners and users by assisting them in the administratively and economically efficient provision of services. Accordingly, USIN must unquestionably ensure that its administration of the Independent LIDB is consistent with the needs of its owners and users and responsive to their incentives to limit toll fraud.

Moreover, USIN has an additional incentive to ensure that it achieves this objective, because the provision of LIDB for Independent LECs is competitive. While USIN has made a significant investment in providing an Independent LIDB, USIN owners and users are by no means compelled to utilize it. If USIN failed to provide LIDB service consistent with the highest industry standards, its LEC customers could choose to take their business to another LIDB provider, thereby placing USIN's capital investment at risk.

Accordingly, USIN believes that any rules addressing assignment of liability for toll losses among LIDB providers and LIDB customers should recognize that substantial incentives exist for LIDB providers to make the LIDB as effective as it can be in

reducing fraud. In the absence of willful misconduct or gross negligence on the part of the LIDB provider, there is no basis for assigning liability to the LIDB provider.

C. Filings in this Proceeding Should Receive Confidential Treatment

USIN urges the Commission to carefully balance the need for open and fair notice and comment proceedings with the need for confidential treatment of proposed fraud control mechanisms. The reason for limiting access to this information is clear - the availability of this information will facilitate the ability of those who seek to commit toll fraud to defeat the fraud control mechanisms in the LIDB.

D. Fraud Issues Should be Treated in a Comprehensive Manner

Additionally, USIN stresses that those who seek to commit toll fraud are likely to continue to attempt to find ways to defeat any new fraud control mechanisms developed as a result of this proceeding. As the NPRM notes, toll fraud is migratory - where calling card fraud is reduced, payphone-based or PBX-based fraud may increase. See NPRM at para. 12. Accordingly, USIN urges the Commission to address fraud issues in a comprehensive manner.

III. Issues Regarding Calling Card Issuing LECs

The Commission requests comment on who will bear the cost of fraud when a calling card number is stolen or used without the cardholder's knowledge or permission. See NPRM, para. 38. As

noted above, all interexchange carriers' tariffed rates are designed to include the recovery of the cost of fraud and uncollectibles. LECs, however, do not assess customers with any interstate service charges which include the cost of fraudulent interstate usage billed to a LEC line number or LEC-issued calling card.

Accordingly, it is inequitable to allocate the cost of calling card fraud to the card issuer. Therefore, card-issuing LECs should not bear any direct liability for fraud, absent willful misconduct or gross negligence, e.g. failing to eliminate terminated accounts from the list of valid card numbers.

The basis for USIN's position is that LECs are less able than IXCs to control the instance of calling card fraud on the interstate networks. For example, IXCs may elect to refuse to honor particular issuers cards if usage on that card reaches an unacceptable threshold level of interstate toll fraud. In fact, many IXCs have the ability to pre-screen certain calling card or line numbers before a query is launched against the LIDB, based on IXC-set criteria for a threshold level of fraud. Additionally, IXCs are the only ones who can examine call duration to detect fraud.

Clearly, card-issuing LECs are situated in an inferior position, relative to interexchange carriers, in preventing toll

fraud on the toll carrier's network. Accordingly, the toll carrier, which already incorporates the costs associated with toll fraud and uncollectibles in the development of its rates, should bear the cost of toll fraud, in the absence of willful misconduct or gross negligence by the card-issuing LEC.⁴

CONCLUSION

USIN submits that adoption of the proposals contained herein will further the Commission's goals of reducing toll fraud, facilitating industry cooperation, and providing for a reasonable set of principles to guide the allocation of liability for the costs of toll fraud.

Respectfully submitted,
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⁴ Of course, the ideal scenario would be to allocate the cost of liability to the cost-causer, that is the criminal perpetrating the fraud. To this end, USIN supports proposals to join with law enforcement authorities to encourage Congress to enact legislation defining and penalizing this criminal activity. NPRM, para. 13.